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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,885	02/19/2004	Stanley Lawrence Grywachski	85081-202 RWD	9052

23529 7590 01/18/2007
ADE & COMPANY INC.
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CANADA

EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/780,885	Applicant(s) GRYWACHESKI ET AL.	
	Examiner Toan C. To	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1, 7, 11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/1/04; 10/25/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1-11, and 15-17 in the reply filed on October 27, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as by being anticipated Pinkham (U.S. 3,603,064).

Pinkham discloses a personal all-terrain vehicle comprising: a frame (4, 5, 6, 7) supported for rolling movement along the ground on respective wheels (2, 3); an engine (8) for driving the wheels (2, 3) to displace the vehicle in a longitudinal direction of the vehicle; and a driver seat (35) supported on the frame (4, 5, 6, 7) for supporting a driver of the vehicle thereon; the driver seat (35) being positioned at an end of the frame (4, 5, 6, 7) beyond the wheels (2, 3) of the vehicle in the longitudinal direction of the vehicle.

4. Claims 15-16 are rejected under 35 U.S.C. 102(b) as by being anticipated Wagner (U.S. 4,869,337).

Wagner discloses a personal all-terrain vehicle comprising: a frame (52) supported for rolling movement along the ground on respective wheels (14), an engine (84) for driving the wheels to displace the vehicle in a longitudinal direction of the vehicle; a driver seat (50) supported on the frame for supporting a driver of the vehicle thereon; wherein the driver seat (50) is faced transversely to the longitudinal direction of the vehicle (the seat 50 is capable of rotating 360 degrees, therefore it is capable of facing transversely to the longitudinally direction of the vehicle); and a drive actuator (56) controlling driver of the vehicle in the longitudinal direction, the drive actuator (56) being positioned adjacent the drive seat (50) for suitable actuation by a leg of the driver.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkham in view of Bobard (U.S. 3,696,880).

Pinkham discloses every element of the invention as discussed above in claim 1 but does not directly disclose a drive actuator being positioned adjacent to the seat for suitable actuation by a leg of the driver to drive the vehicle.

Bobard teaches the invention wherein a drive actuator (126, 128) being positioned adjacent to the seat for suitable actuation by a leg of the driver to drive the

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vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of Pinkham by using the teaching of Bobard in order to provide a driver an easy way to control the vehicle's acceleration.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkham in view of Barr (U.S. 5,513,868).

Pinkham et al discloses every element of the invention as discussed above except that there is a hitch member supported at a rear end of the vehicle adjacent to the seat.

Barr teaches the invention wherein there is a hitch member (48) supported at a rear end of the vehicle adjacent to the seat (30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of Pinkham by attaching a hitch member as taught by Barr in order to transport a smaller trailer when needed.

Allowable Subject Matter

8. Claims 2-6, 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 17 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TTo

January 6, 2007